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HOWARD & HOWARD ATTORNEYS PLLC 450 West Fourth Street Royal Oak, MI 48067			EXAMINER PANDYA, SUNT	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JON P. YARBROUGH and DAVID L. WRIGHT

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Appeal 2010-003191  
Application 10/797,338  
Technology Center 3700

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Before: JENNIFER D. BAHR, PHILLIP J. KAUFFMAN, and  
EDWARD A. BROWN, *Administrative Patent Judges*.

KAUFFMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF CASE

Appellants seek review of the Examiner's rejection of claims 1, 4-22, 25-32, 34-46, 49-51, 54, and 55 under 35 U.S.C. § 103(a) as unpatentable over Yoseloff (US 6,398,645 B1; iss. Jun. 4, 2002) and Falciglia (US 5,935,002; iss. Aug. 10, 1999). We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

## THE INVENTION

Appellants' claimed invention "relates to a method, apparatus, and program product that use a mechanical technological aid to display a representation of a result of the bingo-type game." Spec. 1, para. [0002]. Claims 1, 22, 32, 46, 49, and 50 are independent. Independent claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of playing a bingo-type game, comprising:
  - generating an end game result of the bingo-type game indicative of whether a player has won or lost the bingo-type game; and
  - displaying an award representation of the end game result directly displayed upon and represented by a mechanical technological aid at an electronic play station;
  - wherein the mechanical technological aid is selected from the group of one or more mechanical spinning reels rotatable about at least one axle, one or more mechanical spinning wheels rotatable about at least one axle, one or more mechanical die rotatable about at least one axle, one or more mechanical playing cards rotatable about at least one axle, and combinations thereof.

## ISSUE

The issue presented by this appeal is whether the proposed combination of Yoseloff and Falciglia would have rendered the subject matter of independent claims 1, 22, 32, 46, 49, and 50 obvious to a person of ordinary skill in the art.

## ANALYSIS

Independent claims 1, 22, 49, and 50 are method claims that each comprise displaying a representation<sup>1</sup> of an end game result of a bingo-type game upon a mechanical technological aid. Similarly, independent claim 32 is an apparatus claim that calls for display of an award representation of a result of a bingo-type game on a mechanical technological aid, and independent claim 46 is directed to a program product comprised of a display program code for displaying an award representation of an end game result of a bingo-type game upon a mechanical technical aid. Each claim calls for the mechanical technological aid to be selected from the group of

one or more mechanical spinning reels rotatable about at least one axle, one or more mechanical spinning wheels rotatable about at least one axle, one or more mechanical die rotatable about at least one axle, one or more mechanical playing cards rotatable about at least one axle, and combinations thereof.

The Specification, in parity with the claims, defines the result of the bingo game as whether the player has won or lost the bingo game. Spec. para. [0005]. Thus, each of the independent claims call for display of a

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<sup>1</sup> The representation may be an award representation (claims 1, 22) or a won/loss representation (claims 49, 50).

representation of a game result of a bingo-type game on a mechanical technological aid selected from the specified group.

The Examiner found that Yoseloff discloses a method of playing a bingo-type game except displaying the game result upon a mechanical technological aid, and found that Falciglia discloses a mechanical technological aid for display of the game result that includes mechanical reels rotatable around at least one axis. Ans. 3-4 (citing Falciglia, col. 3, ll. 28-31; col. 11, ll. 25-30). The Examiner concluded that it would have been obvious to modify Yoseloff to include a mechanical technological aid for display of the end game result, as taught by Falciglia. Ans. 4.

The Examiner's finding identifies two elements of Falciglia as corresponding to the claimed mechanical technological aid for display of the end game result, one from the embodiment shown in Figure 1 (Falciglia, col. 3, ll. 28-31), and the other from the embodiment shown in Figure 8 (Falciglia, col. 11, ll. 25-30). *See* Ans. 4.

In the embodiment shown in Figure 1, Falciglia discloses a slot machine design for playing the game of bingo having a display matrix 3 of five rows by five columns that displays the randomly selected bingo numbers. Col. 3, ll. 1-25; fig. 1. Below each column of the display matrix 3 is a corresponding slot machine wheel (wheels 1-5)<sup>2</sup> having an associated display window (display windows 7a-7e). Col. 3, ll. 26-30; fig. 1. Each slot machine wheel includes a range of numbers corresponding to the range of numbers for each column of the display matrix 3.<sup>3</sup> Col. 3, ll. 49-51. The

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<sup>2</sup> Falciglia's slot machine wheels are not depicted in Figure 1. Col. 3, l. 29. We refer to these slot machine wheels corresponding to the five columns of display matrix 3 as "wheels 1-5."

<sup>3</sup> For example, slot machine wheel 1 could include numbers 1-15 corresponding to column 1 of the display matrix 3, wheel 2 could include

slot machine wheels function as the second random number generator, generating numbers for comparison to the numbers in the corresponding column of the display matrix, and matching numbers on the display matrix are “covered.” Col. 2, ll. 13-27. The object of the game being to cover all the numbers on the display matrix with a maximum of ten spins of the wheels. Col. 4, ll. 39-41. In addition to the numbers, each of slot machine wheels 1-5 may also include special positions, such as “Free Spin,” “Devil,” or “Gold Star.” Col. 3, l. 63-col. 4, l. 28; fig. 1. Thus, slot machine wheels 1-5 can display (in display windows 7a-7e) a bingo number or a special position; however, slot machine wheels 1-5 do not display a representation of whether the player has won or lost the bingo-type game that is displayed on the display matrix 3. Therefore, Falciglia’s slot machine wheels 1-5 do not correspond to a mechanical technological aid as claimed because they do not display a representation of a game result of a bingo-type game. *Contra*. Ans. 4.

In the embodiment shown in Figure 8, Falciglia discloses that event processor 196 generates a set of five random symbols which are displayed “to simulate the spinning of multiple mechanical wheels generating random symbols as in slot machines in the prior art.” Col. 11, ll. 21-30. Consequently, Falciglia’s embodiment shown in Figure 8 does not include a mechanical technological aid as claimed because the wheels are simulated, and are not mechanical reels rotatable around at least one axis for display of the game result as claimed. *Contra*. Ans. 4.

Neither portion of Falciglia identified by the Examiner corresponds to a mechanical technological aid as claimed. Consequently, we agree with

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numbers 16-30 corresponding to the second column of the display matrix 3, and so forth. Col. 3, ll. 51-62; fig. 1.

Appellants that the combined teachings of the references would not have rendered obvious the claimed invention. As such, we cannot sustain the rejection of independent claims 1, 22, 32, 46, 49, and 50, and their respective dependent claims 4-21, 25-31, 34-45, 51, 54, and 55.

#### CONCLUSION

The proposed combination of Yoseloff and Falciglia would not have rendered the subject matter of independent claims 1, 22, 32, 46, 49, and 50 obvious to a person of ordinary skill in the art.

#### DECISION

We reverse the Examiner's decision to reject claims 1, 4-22, 25-32, 34-46, 49-51, 54, and 55.

#### REVERSED

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